

**Shire of Moora
Ordinary Council Meeting
18th November 2015**

NOTICE OF MEETING

Dear Elected Member

The next Ordinary Council Meeting of the Shire of Moora
will be held on **Wednesday 18th November 2015**
in the Council Chambers, 34 Padbury Street, Moora
commencing at **5.30 pm**

AJ Leeson
Chief Executive Officer



13th November 2015

The Shire of Moora Vision and Mission Statement

Vision

Our vision is that:

The Moora region will be a place of brilliant opportunity over the next twenty years. Sustainable growth will result in a vibrant, healthy, wealthy and diverse community.

Mission

Our mission is:

To identify and stimulate growth through creative leadership and a willingness to get things done.

SHIRE OF MOORA**WRITTEN DECLARATION OF INTEREST IN MATTER BEFORE COUNCIL**

Chief Executive Officer
Shire of Moora
PO Box 211
MOORA WA 6510

Dear Sir/Madam,

Re: Written Declaration of Interest in Matter Before Council

I, ⁽¹⁾ _____ wish to
declare an interest in the following item to be considered by Council at its meeting to be held on
⁽²⁾ _____.

Agenda Item ⁽³⁾ _____

The type of interest I wish to declare is: ⁽⁴⁾

- Financial pursuant to Section 5.60A of the Local Government Act 1995
- Proximity pursuant to Section 5.60B of the Local Government Act 1995
- Indirect Financial pursuant to Section 5.61 of the Local Government Act 1995
- Impartiality pursuant to Regulation 11 of the Local Government (Rules of Conduct) Regulations 2007.

The nature of my interest is ⁽⁵⁾

The extent of my interest is ⁽⁶⁾

I understand that the above information will be recorded in the Minutes of the meeting and recorded by the Chief Executive Officer in an appropriate Register.

Yours faithfully,

Signed

Date

1. Insert your name.
2. Insert the date of the Council Meeting at which the item is to be considered.
3. Insert the Agenda Item Number and Title.
4. Tick box to indicate type of interest.
5. Describe the nature of your interest.
6. Describe the extent of your interest (if seeking to participate in the matter under S. 5.68 of the Act).

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SHIRE OF MOORA
ORDINARY COUNCIL MEETING AGENDA
18 NOVEMBER 2015
 COMMENCING AT 5.30PM

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Separate Attachments

- 9.1.1 *List of Payments Authorised Under Delegation 1.31*
- 9.1.2 *Statement of Financial Activity for Period Ended 31 October 2015*
- 9.1.3 *Attachment A – Draft Local Laws (to be circulated)*
- 9.1.4 *Shire of Moora Financial Management Review November 2015*
- 9.1.5 *Quote – Lewis Motors Moora*
- 9.3.1 *Correspondence from PW Gardiner & Correspondence from Peter Nixon & Phil Manning*
- 10.1 *Schedule of Meeting Dates for 2016*
- 10.2 *Delegations Register*

1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS**1.1 DECLARATION OF OPENING****1.2 DISCLAIMER READING**

No responsibility whatsoever is implied or accepted by the Shire of Moora for any act, omission or statement or intimation occurring during this meeting.

It is strongly advised that persons do not act on what is heard at this meeting and should only rely on written confirmation of Council's decision, which will be provided within fourteen (14) days of this meeting.

2. ATTENDANCE / APOLOGIES / APPROVED LEAVE OF ABSENCE**3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE****4. PUBLIC QUESTION TIME****5. PETITIONS AND PRESENTATIONS****6. APPLICATIONS FOR LEAVE OF ABSENCE****7. ANNOUNCEMENTS BY THE PRESIDING MEMBER****8. CONFIRMATION OF MINUTES****8.1 ORDINARY COUNCIL MEETING - 21 OCTOBER 2015**

That the Minutes of the Ordinary Meeting of Council held on 21 October 2015 be confirmed as a true and correct record of the meeting.

9. REPORTS OF OFFICERS

9.1 GOVERNANCE AND CORPORATE SERVICES

9.1.1 LIST OF PAYMENTS AUTHORISED UNDER DELEGATION 1.31

REPORT DATE: 3 November 2015

OFFICER DISCLOSURE OF INTEREST: Nil

AUTHOR: David Trevaskis, Deputy Chief Executive Officer

SCHEDULE PREPARED BY: Alida Fitzpatrick, Finance Creditors Officer

ATTACHMENTS: Accounts Paid Under Delegated Authority

PURPOSE OF REPORT

Payments have been made under delegated authority and a listing of these payments is attached for Council to note and endorse.

BACKGROUND

At the December 2005 Ordinary Meeting of Council resolution 276/2005 delegated the authority of payments from Municipal and Trust Funds to the Chief Executive Officer.

COMMENT

Accounts Paid under delegated authority are periodically presented to Council.

POLICY REQUIREMENTS

Delegation 1.31 – Payments from Municipal and Trust Funds.

LEGISLATIVE REQUIREMENTS:

Local Government Act 1995 - Section 6.10

Local Government (Financial Management) Regulations 1996 – Regulations 12 & 13.

STRATEGIC IMPLICATIONS

There are no known strategic implications associated with this proposal.

SUSTAINABILITY IMPLICATIONS

➤ Environment

There are no known significant environmental implications associated with this proposal.

➤ Economic

There are no known significant economic implications associated with this proposal.

➤ Social

There are no known significant social implications associated with this proposal.

FINANCIAL IMPLICATIONS

Payments are in accordance with the adopted budget.

VOTING REQUIREMENTS

Simple Majority Required

RECOMMENDATION

That Council notes and endorses the Payments from the Municipal and Trust Funds made under delegation 1.31

<i>Municipal Fund</i>	<i>Cheques 62077 - 62088</i>	<i>\$13,751.55</i>
	<i>EFT 14435 - 14603</i>	<i>\$672,566.93</i>
	<i>Credit Card 15/09/15 to 14/10/15</i>	<i>\$2,320.78</i>
	<i>Net Pays – PPE 06/10/15</i>	<i>\$88,343.85</i>
	<i>Net Pays – PPE 20/10/15</i>	<i>\$88,174.64</i>
<i>Trust Fund</i>	<i>Cheques 5119-5135</i>	<i>\$1,211.65</i>
<i>Total</i>		<i><u>\$886,369.40</u></i>

9.1.2 STATEMENT OF FINANCIAL ACTIVITY FOR PERIOD ENDED 31 OCTOBER 2015

REPORT DATE: 10 November 2015

OFFICER DISCLOSURE OF INTEREST: Nil

PREVIOUS MEETING REFERENCES: Nil

AUTHOR: David Trevaskis, Deputy Chief Executive Officer

ATTACHMENTS: Statement of Financial Activity for the Period Ended 31 October 2015

PURPOSE OF REPORT:

To note and receive the Statement of Financial Activity for the period ended 31 October 2015.

BACKGROUND:

Council is provided with monthly financial reports to enable monitoring of revenues and expenditures against the adopted budget.

COMMENT:

The Statement of Financial Activity for the Period Ended is provided as a separate attachment in Program format.

POLICY REQUIREMENTS:

Nil

LEGISLATIVE REQUIREMENTS:

Local Government Act 1995, Section 6.4

Local Government (Financial Management) Regulations 1996, Clause 34

STRATEGIC IMPLICATIONS:

Monitoring of actual revenues and expenditures against the adopted budget assists Council in being informed as to the financial health of the organisation.

SUSTAINABILITY IMPLICATIONS:

- **Environment**
There are no known significant environmental implications associated with this proposal.
- **Economic**
There are no known significant economic implications associated with this proposal.
- **Social**
There are no known significant social implications associated with this proposal.

FINANCIAL IMPLICATIONS:

Year to date income and expenditure is provided by program to enable comparison to 2015/16 adopted budget.

VOTING REQUIREMENTS

Simple Majority Required

RECOMMENDATION

That Council notes and receives the Statement of Financial Activity for the period ended 31 October 2015.

9.1.3 COMMENCEMENT OF THE ADOPTION OF SHIRE OF MOORA AMENDMENT LOCAL LAW 2013, HEALTH LOCAL LAW 2013, WASTE LOCAL LAW 2013, MEETING PROCEDURES LOCAL LAW 2013, FENCING LOCAL LAW 2013 & DOGS LOCAL LAW 2013

FILE REFERENCE: PR/ADVI

REPORT DATE: 4 November 2015

APPLICANT/PROPONENT: Shire of Moora

OFFICER DISCLOSURE OF INTEREST: Nil

PREVIOUS MEETING REFERENCES: 19/06/2013 (86/13)

AUTHOR: Consultant, Phillip Swain

ATTACHMENTS: Attachment A – Draft Local Laws (to be circulated)

PURPOSE OF REPORT:

The purpose of this report is for Council to commence, in accordance with the Local Government Act 1995 and other relevant Acts, local law adoption of new and amendment local laws for the Shire of Moora.

BACKGROUND:

The Shire of Moora's existing Local Laws were gazetted on various dates, dating back to 1944. Whilst the local laws made pursuant to the Local Government Act 1995 were made in the late 1990's. A review of the Shire of Moora Local Laws was commenced following the resolution of Council in July 2011. In February 2012, in relation to the review, Council resolved the following;

That Council:

1. Receives the report of review in relation to the Shire of Moora local laws as advertised on 17 August 2011, and following the closure of the submission period on the 29 September 2011;
2. Resolves to retain the following local laws
 - a) Local Government Property Local Law
 - b) Cemeteries Local Law
3. Directs Administration to prepare the necessary amendments for the following local laws;
 - a) Local Government Property Local Law
 - b) Cemeteries Local Law
4. Directs Administration to prepare the necessary amendments to repeal for the following local laws;

- a) Parking Bylaws
 - b) TV Masts and Antennae
 - c) Obstructing Animals and Vehicles Draft Model by-law No. 7
 - d) Stalls & Hawkers
 - e) Prevention of Damage to Streets – Draft Model by-law No15
 - f) Bylaws Relating to Verandas and Removal Thereof
5. Directs Administration to prepare draft local laws to replace the following existing local laws;
- a) Fencing Local Law
 - b) Standing Orders Local Law
 - b) Dogs Local Law (Dog Act 1976)
 - c) Model By-Laws Series A (Health Act 1911)
6. Directs Administration to prepare a new draft Waste Local Law

COMMENT:

In accordance with guidelines issued by the Western Australian Local Government Association (WALGA) the Shire's local laws should aim to satisfy the following objectives:

- a) the use of plain English in all local laws that they are easy to read and readily understandable to both the public and the members of Administration;
- b) relevance to the needs of the Shire of Moora;
- c) compliance with the Local Government Act 1995 (WA) and other legislation;
- d) deletion of legislative duplication;
- e) avoidance of legislative inconsistency between other local laws, State and Federal legislation;
- f) the creation of laws that are able to stand alone without the need to be cross-referenced.

All local laws are required to be consistent with the National Competition Policy and unless justified under the Public Benefit Test, should not contain provisions that restrict competition. Generally new local laws are adopted following models developed by the WALGA to minimise legal costs and the complications of the benefit tests.

The Shire needs to initiate the process of adoption for both the amendments and new local laws by giving local public and state-wide public notice and seeking comments on the proposed legislation.

Waste Local Law

Waste provisions now require adoption pursuant to the Waste Avoidance and Resource Recovery Act 2007. Hence, adoption of a Waste Local Law in accordance with the requirements of the Department of Environment and Conservation will be required. Administration has prepared a draft Waste Local Law for consultation, based on similar legislation, adopted by other local governments.

Health Local Law

The Shire has previously adopted various versions of the Model Bylaws series A, which were the basis of Health Act bylaws up until the early 1990's. Contemporary health local laws typically utilised by local governments were the result of a significant consolidation, led by the City of Perth, and undertaken by local governments in the late 1990's, to modernise health local laws. Many of the provisions serve to maintain basic sanitary conditions for dwellings, establishing maintenance standards and control community nuisance issues. Other provisions

assist the City in the control of pests and certain noxious trades, as well as provision for the control of certain infectious diseases. Controls include the creation of offences with penalties and licensing and registration of activities such as offensive trades and lodging houses. At the February meeting Council resolved to repeal the historic model bylaws series A and adopt a new local law

The Department of Health has advised Local Governments that the current Act, (Health Act 1911), is likely to be repealed following the development of more modern public health legislation at some time in the future. Whilst the progress of a new Bill has been repeatedly delayed it has been highlighted in discussions with the Department, that many of the nuisance type provisions in the current Health Local Laws will not be adopted under the new Act. The new Act proposes different mechanisms for the implementation and enforcement of public health policy. Advice to date has confirmed that the various nuisance type provisions will most likely be adopted under the Local Government Act 1995, and that the various licensing and registration provisions will be protected under public health policies or be transferred to other legislation, such as the recently adopted Food Act. Irrespective of this it will be advantageous to the Shire to have adopted a contemporary health local law such that those provisions will be preserved under any transitional arrangements should the Bill be adopted.

Meeting Procedure Local Law

The draft meeting procedures local law is based on the WALGA Model, which has been subject to continuous improvement since the inception of the 1995 Act. The local laws address those matters not already dealt with under the Act and Regulations in relation to Committees, Council meeting procedures and the preparation of agendas and minutes. Once adopted the local law will be formatted including all the relevant Act and Regulation provisions to assist Councillors to comply with the relevant governance requirements at all times.

Dogs Local Law

The Draft Dogs Local Law is based on the WALGA model. This local law has not changed substantially over time. Other than affirming provisions relating to dangerous dogs and areas prohibited for dogs as well as exercise areas, there are no substantial changes to the Shire's existing local law.

Fencing Local Law

The draft Shire of Moora Fencing Local Law 2013 is based on a previous WALGA model, which has been used by a number of local governments to provide minimum standards for the construction of fencing within municipalities. Licensing provisions under the proposed model are limited to dangerous fencing such as electric and razor wire fencing. It is proposed that the local law be adopted utilising the Shire of Murray Fencing Local Law 2012, adopted by reference. The local law is predominantly design and construction standards for fencing that have been uniformly applied in most circumstances throughout the state.

Amendment Local Law

An amendment local law has been prepared, to undertake repeal of a number of antiquated provisions that are currently empowered within the Shire of Moora. Additionally, minor alterations and changes of local laws relating to Cemeteries and Local Government Property are contained within the amendment local law.

The local government property local law amendments are limited to the updating of the modified penalties while the Cemeteries Local Law requires a series of amendments to rectify the previous adoption of a Model Local Law.

One matter raised in consultations with Council is the issue with respect to the plot tenure within the Moora Cemetery. Under the 1986 Cemeteries Act, the maximum guaranteed tenure on any given plot is 50 years although this can be extended for further 25 year periods at the discretion of the Shire. Under the revised 1986 Cemeteries Act, the new stipulated tenure of Grants was 25 years with an automatic option for Grant holders to purchase an additional 25 years either initially or at any time during the first 25 years. The discretion of all cemetery authorities in Western Australia to issue 50 or 99 year Grants was revoked. Extensions can only be in 25 year increments. So as to set a uniform expiry date for all Grants issued under the 1897 Act and provide Cemetery authorities with the ability to both manage their land holdings and have a known consistency of Grant expiry dates across their cemeteries, Parliament endorsed legislation stipulating that Grants of Rights of Burial issued prior to July 1 1987 that had not expired by July 2 2012 would, collectively, expire on July 2 2012. The Shire can not legislate to vary these requirements as to do so would override the state Act, however, have the right to permit 25 year extensions of a plot during any 25 year term, at the agreement of the grant holder.

Council is therefore requested to resolve the commencement of adoption of the draft amendment local law, the various replacement local laws and a new waste local law for the Shire and give state-wide public and local notice of the same. The proposed local laws and amendments and copies of the report of the review and the draft amendment are to be made available upon request to members of the public.

POLICY REQUIREMENTS:

The following current Council policies relate to the making and/or enforcement of the Shire's existing Local Laws:

3.3 Local Laws

Originally adopted by Council on 20th May 1998.

That Council make, publicise and review its local laws according to the guidelines below: -
Guidelines.

1. That local law making powers be used sparingly and only after applying the following tests:-
 - Can Council achieve the objective without making a law?
 - Has Council the will and resources to enforce the law?
 - Will practical benefits result from the law?
2. That local laws be worded as simply as possible.
3. That where local laws are site specific, e.g. laws relating to the hall, a copy of the laws be posted, where feasible at the site concerned, or where not considered feasible by the CEO, that an abbreviated version be kept posted at the site stating: - offences and penalties; and that the full laws can be inspected at the Shire Office.
4. That where registration or licensing of an activity, premises or animal is required, the opportunity be taken to issue a leaflet advising of local laws associated with that activity, premises or keeping of that animal.

5. That the President consider making the exercise of the legislative powers by the local government a component of the President's annual report as a means of identifying district problems and steps Council is taking to combat these.

6.2 Veranda Posts

Council Policy 6.2 – Veranda Posts, supports an intention for parts of the Shire to install or retain veranda posts, and is contrary to the requirements of the local law, which compelled the removal of the same in 1971. Policy 6.2 adequately deals with approval of verandas as it requires the submission of building licence applications for the same.

8.4 Fencing Property Adjoining Shire Land

8.14 Cemetery

Whilst policies 8.4 & 8.14 do not materially affect the current local laws they relate to matters that can be captured the amendments. Policy 3.3 needs to be considered in the context of any proposed repeals, retention or amendments.

Council Policy 8.4 allows for persons with land adjoining Council property to make claim for 50% of the cost of a dividing fence, which is made as an ex-gratia payment. In this regard, the Dividing Fences Act will continue to apply within the Shire irrespective of whether the Shire has Fencing Local Laws or not. This does however mean that the Shire needs to consider at least basic requirements for fences within the Shire in a new local law.

LEGISLATIVE REQUIREMENTS:

It is a requirement of the Local Government Act that at a council meeting the person presiding is to give notice to the meeting of the purpose and effect of any proposed local law including any amendment. The Local Government (Functions and General) Regulations 1996 Part IA-Local Laws, prescribe the following:

Notice of purpose and effect of proposed local law - s. 3.12(2)

For the purpose of section 3.12, the person presiding at a council meeting is to give notice of the purpose and effect of a local law by ensuring that -

- (a) the purpose and effect of the proposed local law is included in the agenda for that meeting; and
- (b) the minutes of the meeting of the council include the purpose and effect of the proposed local law.

The intended Purpose and Effect of the Shire of Moora Amendment Local Law 2013 are:

Purpose: The purpose of the local law is to provide for the repeal and amendment of the Shire of Moora Local Laws to provide for the good governance of the district of the Shire of Moora.

Effect: The effect of the local law is to repeal and amend existing local laws within the district of the Shire of Moora to provide for the good governance of the municipality.

The intended Purpose and Effect of the Shire of Moora Fencing Local Law 2013 are:

Purpose: The purpose of the local law is to provide for the regulation, control and management of the fencing within the district of the Shire of Moora.

Effect: The effect of this local law is to ensure that fences are constructed and maintained to a satisfactory structural and aesthetic standard throughout the district of the Shire of Moora.

The intended Purpose and Effect of the Shire of Moora Meeting Procedures Local Law 2013 are:

Purpose: The purpose of the local law is to provide for rules and guidelines which apply to the conduct of meetings of the Council and its Committees and to the meetings of electors within the district of the Shire of Moora.

Effect: The effect of the local law is to establish requirements for better decision making by the Council and Committees, the orderly conduct of meetings, better understanding of the processes of conducting meetings and the more efficient and effective use of time at meetings, within the district of the Shire of Moora.

The intended Purpose and Effect of the Shire of Moora Dogs Local Law 2013 are:

Purpose: The purpose of the local law is to provide for the regulation, control and management of the keeping of dogs within the district of the Shire of Moora.

Effect: The effect of the local law is to establish the requirements with which owners and occupiers of land within the district of the Shire of Moora must comply in order to keep dogs and provides the means of enforcing the local law.

The intended Purpose and Effect of the Shire of Moora Health Local Law 2013 are:

Purpose: The purpose of the local law is to provide for the regulation, control and management of activities and issues relating to public health within the district of the Shire of Moora.

Effect: The effect of the local law is to control activities and manage influences on community public health within the district of the Shire of Moora.

The intended Purpose and Effect of the Shire of Moora Waste Local Law 2013 are:

Purpose: The purpose of the local law is to provide for the regulation, control and management of activities and issues relating to waste collection, recycling, reuse and disposal within the district of the Shire of Moora.

Effect: The effect of the local law is to control activities and manage influences on waste collection, recycling, reuse and disposal within the district of the Shire of Moora.

Where Council has determined that a local law should be adopted or amended, a local government is required give state-wide notice of the proposed local law. Submissions must be accepted for a period of six (6) weeks. The Council must consider any submissions made before making or amending a local law. In some cases such as a, waste local law, health local Law or dogs local law

The adoption and amendment of the Shire of Moora Local Laws is both a legislative and consultative process.

STRATEGIC IMPLICATIONS:

Goal 5: Good governance and an effective and efficient organisation.

Scope: Governance, corporate and administrative services, financial management, statutory compliance and customer services.

SUSTAINABILITY IMPLICATIONS:**➤ Environment**

There are no known significant environmental implications associated with this proposal.

➤ Economic

There are no known significant economic implications associated with this proposal.

➤ Social

There are no known significant social implications associated with this proposal.

FINANCIAL IMPLICATIONS:

Direct costs associated with this report will be limited to consultant fees to draft the local laws and reports. These costs will be borne via budgeted expenditure. Where a draft Amendment local laws and new local laws will attract additional advertising costs associated with the State-wide and local public notice of the same. Following the discussion period, and depending upon any submissions, further amendment review and legal advice may be incurred. Once the local law adoption has been finalised by Council, there will be gazettal costs in due course. Fees will be incurred for any gazettal.

VOTING REQUIREMENTS

Absolute Majority Required

RECOMMENDATION

That Council authorises Administration to give local and state-wide public notice in accordance with section 3.12 of the Local Government Act 1995, seeking public comment for the following local laws contained in Attachment A;

- a) the draft Shire of Moora Waste Local Law 2013 (Waste Avoidance & Resource Recovery Act 2007);*
- b) the draft Shire of Moora Health Local Law 2013 (Health Act 1911);*
- c) the draft Shire of Moora Meeting Procedures Local Law;*
- d) the draft Shire of Moora Dogs Local Law 2013 (Dog Act 1976);*
- e) the draft Shire of Moora Fencing Local Law 2013; and,*
- f) the draft Shire of Moora Amendment Local Law 2013.*

9.1.4 CEO FINANCIAL MANAGEMENT REVIEW

REPORT DATE: 10 November 2015

APPLICANTS/PROPONENT: Alan Leeson, Chief Executive Officer

OFFICER DISCLOSURE OF INTEREST: Nil

PREVIOUS MEETING REFERENCES: Nil

AUTHOR: David Trevaskis, Deputy Chief Executive Officer

ATTACHMENTS: Shire of Moora Financial Management Review November 2015

PURPOSE OF REPORT:

To report to Council the results of the CEO's financial management review November 2015.

BACKGROUND:

Regulation 5(2)(C) of the Local Government (Financial Management) Regulation 1996 requires that the Chief Executive Officer is to undertake reviews of the appropriateness and effectiveness of the financial management systems and procedures of the local government regularly (and not less than once in every four financial years) and report to the local government the results of those reviews.

Regulation 5(1) of the Local Government (Financial Management) Regulations 1996 requires that the Chief Executive Officer establish efficient systems and procedures:

- (a) For the proper collection of money owing to the local government;
- (b) For the safe custody and security of all money collected or held by the local government;
- (c) For the proper maintenance and security of the financial records of the local government (whether maintained in written form or by electronic or other means or process);
- (d) To ensure proper accounting for municipal or trust:
 - (I) Income received or receivable;
 - (II) Expenses paid or payable; and
 - (III) Assets and liabilities;
- (e) To ensure proper authorisation for the incurring of liabilities and the making of payments;
- (f) For the maintenance of payroll, stock control and costing records; and
- (g) To assist in the preparation of budgets, accounts and reports required by the Act or these regulations.

COMMENT:

During October 2015 a detailed review of the Shire's financial management systems and procedures was carried out including examination of a number of financial transactions, records, registers, policies and month end reconciliations. The findings and recommendations resulting from this review are included in the attached Shire of Moora Financial Management Review November 2015.

It is the author's opinion that the overall effectiveness of the financial management systems and procedures in place are appropriate and adequate for the scope of the Shire of Moora's activities.

POLICY REQUIREMENTS:

Nil

LEGISLATIVE REQUIREMENTS:

Local Government (Financial Management) Regulations 1996 s 5(2)

STRATEGIC IMPLICATIONS:

Nil

SUSTAINABILITY IMPLICATIONS:

- **Environment**
There are no known significant environmental implications associated with this proposal.
- **Economic**
There are no known significant economic implications associated with this proposal.
- **Social**
There are no known significant social implications associated with this proposal.

FINANCIAL IMPLICATIONS:

There are no financial implications to Council in relation to this item.

VOTING REQUIREMENTS

Simple Majority Required

RECOMMENDATION

That Council accept the attached Shire of Moora Financial Management Review November 2015, to be utilised by the CEO to manage his obligations in relation to his financial management duties in accordance with Local Government (Financial Management) Regulation 1996 s 5(2).

9.1.5 CEO VEHICLE – 2015-/16 BUDGET AMENDMENT**FILE REFERENCE:****REPORT DATE:** 11 November 2015**APPLICANT/PROPONENT:** Chief Executive Officer, Alan Leeson**OFFICER DISCLOSURE OF INTEREST:** Chief Executive Officer (Financial)**PREVIOUS MEETING REFERENCES:** 16/9/15 (136/15)**AUTHOR:** David Trevaskis, Deputy Chief Executive Officer**ATTACHMENTS:** Quote – Lewis Motors Moora**PURPOSE OF REPORT:**

Council to consider a 2015/16 budget amendment to include change-over of CEO vehicle as per council resolution 136/15 “CEO Performance Review”.

BACKGROUND:

At Councils 16th September 2015 meeting it was resolved;

136/15 Moved Cr McLagan, seconded Cr Pond that;

1. Council congratulates the CEO for achieving an excellent outcome in the 2015 Performance review.
2. Council accepts the 2015 Review Survey Document as a true reflection of the Council’s view of the CEO’s performance for the period under review.
3. Council authorises the CEO to upgrade his CEO Motor Vehicle to a Series 200 Toyota Landcruiser when the vehicle is next changed over noting that the remuneration package is within the parameters of Band 3 of the Salaries and Allowances Tribunal Determination 17 June 2015 set by the Salaries and Allowances Tribunal Total Reward Package Range (\$154,045 - \$252,917) with an increase in the annual package value of the vehicle of \$7,805 per annum increasing the annual motor vehicle value to \$26,555 and the overall remuneration package to \$226,055
4. Council and the CEO adopt the KPIs for the 2015/2016 financial year as detailed to Council in the report prepared by FitzGerald Strategies.
5. That the parameters of the Remuneration Package (excluding annual Consumer Price indexation of Salary) be set as negotiated (Performance Review 2015) until the performance review of July/August 2017.

COMMENT:

As per Local Government Act 1995 and associated regulations...

6.8. Expenditure from municipal fund not included in annual budget

- (1) A local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure —
 - (a) is incurred in a financial year before the adoption of the annual budget by the local government; or
 - (b) *is authorised in advance by resolution**; or
 - (c) is authorised in advance by the mayor or president in an emergency.

* *Absolute majority required.*

POLICY REQUIREMENTS:

Nil

LEGISLATIVE REQUIREMENTS:

Local Government Act 1995 6.8

STRATEGIC IMPLICATIONS:

Nil

SUSTAINABILITY IMPLICATIONS:

- **Environment**
There are no known significant environmental implications associated with this proposal.
- **Economic**
As per attached quote, an unbudgeted amount of \$32,280 (GST excl) will be expensed from the Shire's municipal funds during the 2015-16 financial year.
- **Social**
There are no known social implications associated with this proposal.

FINANCIAL IMPLICATIONS:

Amending the 2015-16 budget to increase the Shire's 2015-16 plant and equipment capital expense figure will reduce the estimated operating surplus at 30 June 2016 to \$7,321.

VOTING REQUIREMENTS:

Absolute Majority Required

RECOMMENDATION

That Council amend its 2015/2016 municipal budget to include the acquisition of a new Toyota Landcruiser 200 Series, estimated changeover cost not exceeding \$32,280 plus GST, in accordance with the quote provided by Moora Toyota.

9.1.6 LOCAL GOVERNMENT SALE DUE TO UNPAID RATES – 12 LEFROY STREET MOORA

FILE REFERENCE: PA/373

REPORT DATE: 12 November 2015

APPLICANT/PROPONENT: Shire of Moora

OFFICER DISCLOSURE OF INTEREST: Nil

PREVIOUS MEETING REFERENCES: Nil

AUTHOR: David Trevaskis, Deputy Chief Executive Officer

ATTACHMENTS: Nil

PURPOSE OF REPORT:

To exercise Councils power of sale to recover outstanding rates due on the property 12 Lefroy Street, Moora.

BACKGROUND:

1. Liam Gerald Clampett (“Owner”) is the registered proprietor of 12 Lefroy Street, Moora and currently owes the Shire the sum of \$14,967.25 being unpaid rates, service charges, interest and legal costs.
2. The sum of \$2,301.03 has been outstanding for over 3 years.
3. The Shire of Moora commenced proceedings against the Owner in the Magistrates Court of Western Australia on 24 October 2012 for the sum of \$6,007.21 and default judgement was entered by the Court on 2 January 2013 for the sum of \$6,337.14 (“**Judgement Debt**”).
4. The Shire has made the following attempts at enforcing the judgement debt under the *Civil Proceedings Act 2004 (WA)*:
 - (a) Means Inquiry Summons issued 15 February 2013;
 - (b) further Means Inquiry Summons issued 28 March 2013;
 - (c) further Means Inquiry Summons issued 10 May 2013; and
 - (d) Property (Seizure and Sale) Order from 8 July 2013 which was extended and continued until around March 2015.
5. On 14 April 2014, the Owner paid the sum of \$4,000.00 but has failed to pay the balance of the Judgement Debt or any further rates and service charges.

POLICY REQUIREMENTS:

Nil

LEGISLATIVE REQUIREMENTS:

Section 6.68(2)(b) of the Local Government Act 1995 (WA)

STRATEGIC IMPLICATIONS:

There are no known strategic implications associated with this proposal.

SUSTAINABILITY IMPLICATIONS:

- **Environment**
There are no known significant environmental implications associated with this proposal.
- **Economic**
There are no known significant economic implications associated with this proposal.
- **Social**
There are no known significant social implications associated with this proposal.

FINANCIAL IMPLICATIONS:

Recovery of unpaid rates and charges. Associated legal costs can be recovered from the proceeds of sale of the property.

VOTING REQUIREMENTS

Simple Majority Required

COUNCIL RESOLUTION

Pursuant to section 6.68(2)(b) of the Local Government Act 1995 (WA) Council resolves to exercise its power of sale under Part 6 Subdivision 6 of the Local Government Act 1995 (WA) over 12 Lefroy Street, Moora, noting that the Shire of Moora has attempted to recover the outstanding money by commencing proceedings in the Magistrates Court of WA under section 6.56 of the Local Government Act 1995 (WA).

9.2 DEVELOPMENT SERVICES

9.2.1 KEVIN & JULIE KRAMER – SIMMO'S ICE CREAM VAN

FILE REFERENCE: H/HEG I

REPORT DATE: 10 November 2015

APPLICANT/PROPONENT: Kevin & Julie Kramer

OFFICER DISCLOSURE OF INTEREST: Nil

PREVIOUS MEETING REFERENCES: Nil

AUTHOR: Peter Williams, Manager Development Services

ATTACHMENTS: Nil

PURPOSE OF REPORT:

An application has been received from Mr Kevin and Mrs Julie Kramer (Proponents) seeking Council approval to operate an ice cream van (Simmo's Ice Cream) in the Shire of Moora at various locations mainly in the Town centre.

BACKGROUND:

The Shire of Moora currently has no "Activities in Thoroughfares and Public Places and Trading Local laws", these Local Laws are in the process of being developed by Councils Local Law Consultant Mr Phillip Swain.

It has recently been identified that the Shire of Moora has a bylaw that is still in force Stalls and Hawkers 1960 – 1981 which is being used in this instance as guidance and can be used for other traders.

It is a requirement that Prospective traders make application to Council requesting permission to trade in the Shire of Moora. The application is to contain the area where these traders wish to operate, the times of trading of their operation and what wares they wish to sell. Council will determine whether there is a potential conflict and whether fixed retail traders in the Moora Town Centre will be disadvantaged. Council is to determine the appropriate fee to charge for these traders.

Mr Kramer lodged an application with the Shire back in September and the Chief Executive Officer subsequently requested that the proponent undertake a trial 5 week period of trading. This was after a letter was written to all retail traders who sold ice-cream asking if they had any objections to Mr Kramer trading at the following locations:

- Swimming Pool Car Park
- Carpark across from the Bakery in Padbury Street
- Car Park across from the Shire Office
- Gardiner Street Bus Car Park

One objection was received from the Bakery and the conditions imposed on Mr Kramer reflected that Mr Kramer could only operate from the Car park opposite on weekends when the bakery was not open.

Mr and Mrs Kramer were sent a letter granting them a 5 week trial to operate in the above mentioned areas subject to no objections being received by the Shire.

The 5 week period has passed and no objections have been received by the Shire at the conclusion of the trial period.

COMMENT:

Nil

POLICY REQUIREMENTS:

No known policy requirements related to this item.

LEGISLATIVE REQUIREMENTS:

Stalls and Hawkers 1960 – 1981 By Laws

STRATEGIC IMPLICATIONS:

There are no known strategic implications associated with this proposal.

SUSTAINABILITY IMPLICATIONS:**➤ Environment**

There are no known significant environmental implications associated with this proposal.

➤ Economic

There are no known significant economic implications associated with this proposal.

➤ Social

There are no known significant social implications associated with this proposal.

FINANCIAL IMPLICATIONS:

Trading in Thoroughfares annual Registration fee is \$1,050.00

VOTING REQUIREMENTS

Simple Majority Required

RECOMMENDATION

That Council approve Mr and Mrs Kramer to operate “Simmo’s Ice-cream Van” subject to the following conditions:

- *Ongoing compliance with Food Act 2008, Food Regulations 2009, Food Safety Standards;*
- *Annual inspection of van by Shire Environmental Health Officer*
- *Payment of annual registration/renewal fee of \$1,050.00*
- *Operate Simmo’s Ice cream van up to 10 days a month at the following locations:*
 - *Swimming Pool Car Park*
 - *Car Park across from the bakery in Padbury Street, Moora only on weekends and not when the Bakery is open*
 - *Car Park across the road from Shire Office in Padbury Street*
 - *Gardiner Street Bus car park*

9.3 ENGINEERING SERVICES

9.3.1 PROPOSED PERMANENT ROAD CLOSURE – ORTON ROAD

FILE REFERENCE: S/ROCI

REPORT DATE: 9 November 2015

APPLICANT/PROPONENT: Shire of Moora

OFFICER DISCLOSURE OF INTEREST: Nil

PREVIOUS MEETING REFERENCES: Nil

AUTHOR: Alan Leeson, Chief Executive Officer

ATTACHMENTS: Correspondence from PW Gardiner
Correspondence from Peter Nixon & Phil Manning
Photo's of (part of) unmade Orton Road

PURPOSE OF REPORT:

Council to consider the permanent closure of Orton Road – Part of (refer to map)

BACKGROUND:

Council received a letter from Mr Philip Gardiner on the 6 October 2015 expressing concern regarding access to Orton Road which is a gazetted but unmade road which runs between the Moora Miling Road and the Midlands Road (between Walebing and Moora).

Mr Gardiner has expressed an interest to move stock from his farm “Edale” on Cattady Road, Moora to a property to the east of Koojan. The road is not constructed and is situated in between farmlands owned by Jetlight Holdings and PM Manning Nominees and Manning and Sons. There is also one parcel on the south east corner of Orton Road where it intersects with the Midlands Road owned by the Glasfurd family.

COMMENT:

The author has sought comment and feedback from Nixon's and Manning's and is of the view that the most reasonable way forward given the “road” is not constructed, and has been fenced off in sections albeit without authorisation as part of the farming operations, is to permanently close Orton Road and have subject land merged with adjacent farming land.

The historic use around Orton Road has been very infrequent of any use as a public thoroughfare. There are a number of un-made public gazetted roads across the State and it is rare to have an issue of this nature forthcoming, whereby Council in effect is required to arbitrate over usage of a public road/thoroughfare.

There are a number of considerations around this issue;

- Council could request/direct the adjacent land owners (farmers) to Orton Road to fence the road reserve off, thus allowing public use of the road reserve for the purpose of stock movement. This would negate any issues bio-security around animal health that might otherwise occur on adjacent farmland as a result of straying stock that may otherwise occur if the road reserve was not fenced. The author would contend at this juncture that there would not be any intention from Council's perspective to have the road reserve constructed to a gravel road standard. It would simply allow for use around stock movement a request by Mr Gardiner.
- Should Council compel the adjacent farmers to fence off the road reserve it is likely that they may expect a better standard of access and maintenance of the road reserve. A lot

of the road is impassable to not only vehicles but also stock with vegetation, weeds, rocks and even creeks. (refer to photos)

To bring the road reserve to a passable state there would be significant earthworks involved not withstanding clearing permits.

POLICY REQUIREMENTS:

Council does not have a policy relevant to this matter. It maybe that a policy be developed, however the merits of individual cases/situations would make it difficult to develop a policy that would have a broad and practical application. The author is of the view that individual cases be considered on their merit.

LEGISLATIVE REQUIREMENTS:

Refer to attached guideline.

Also refer to actual legislation hereunder;

Land Administration Act 1997 – Section 58

58. Closing roads

- (1) When a local government wishes a road in its district to be closed permanently, the local government may, subject to subsection (3), request the Minister to close the road.
- (2) When a local government resolves to make a request under subsection (1), the local government must in accordance with the regulations prepare and deliver the request to the Minister.
- (3) A local government must not resolve to make a request under subsection (1) until a period of 35 days has elapsed from the publication in a newspaper circulating in its district of notice of motion for that resolution, and the local government has considered any objections made to it within that period concerning the proposals set out in that notice.
- (4) On receiving a request delivered to him or her under subsection (2), the Minister may, if he or she is satisfied that the relevant local government has complied with the requirements of subsections (2) and (3) —
 - (a) by order grant the request; or
 - (b) direct the relevant local government to reconsider the request, having regard to such matters as he or she thinks fit to mention in that direction; or
 - (c) refuse the request.
- (5) If the Minister grants a request under subsection (4) —
 - (a) the road concerned is closed on and from the day on which the relevant order is registered; and
 - (b) any rights suspended under section 55(3)(a) cease to be so suspended.
- (6) When a road is closed under this section, the land comprising the former road —
 - (a) becomes unallocated Crown land; or
 - (b) if a lease continues to subsist in that land by virtue of section 57(2), remains Crown land.

Land Administration Regulations 1998

9. Local government request to close road permanently (Act s. 58(2)), requirements for

For the purposes of preparing and delivering under section 58(2) of the Act a request to the Minister to close a road permanently, a local government must include with the request —

- (a) written confirmation that the local government has resolved to make the request, details of the date when the relevant resolution was passed and any other information relating to that resolution that the Minister may require; and
- (b) sketch plans showing the location of the road and the proposed future disposition of the land comprising the road after it has been closed; and
- (c) copies of any submissions relating to the request that, after complying with the requirement to publish the relevant notice of motion under section 58(3) of the Act, the local government has received, and the local government's comments on those submissions; and
- (d) a copy of the relevant notice of motion referred to in paragraph (c); and
- (e) any other information the local government considers relevant to the Minister's consideration of the request; and
- (f) written confirmation that the local government has complied with section 58(2) and (3) of the Act.

STRATEGIC IMPLICATIONS:

There are no known relevant strategic considerations in relation to this matter.

SUSTAINABILITY IMPLICATIONS:

- **Environment**
There are no known significant environmental implications associated with this proposal.
- **Economic**
There are no known significant economic implications associated with this proposal.
- **Social**
There are no known significant social implications associated with this proposal.

FINANCIAL IMPLICATIONS:

The only financial consideration for Council in relation to this matter is the cost of advertising which is likely to be in the vicinity of \$300. The cost could be apportioned to the adjacent land owners a 50/50 basis.

SUMMARY:

This situation is somewhat unusual. In the authors view given the history of the road reserve, its current state in being impassable in some locations and the fact that it serves little, if any broader public benefit or use, Orton Road should be permanently closed in accordance with the provisions of the Land Administration Act 1997.

VOTING REQUIREMENTS

Simple Majority Required

RECOMMENDATIONS***That Council;***

- 1. Acknowledge the correspondence of Messrs PW & JI Gardiner in relation to issues concerning Orton Road;***
- 2. Acknowledge the application from Manning's and Nixon's to have Orton Road closed permanently;***
- 3. Agree to give Public Notice of its intent to seek the permanent closure Orton Road and advertise the proposal in accordance with Section 58 of the Land Administration Act 1997 for period of not less than 35 days;***
- 4. Formally advise correspondents, applicants, affected land owners and public service – utility agencies advising them of Councils intended course of action in regards to Orton Road as request them to make public comment/submission back to Council within the 35 day period.***

9.3.2 RESEALS

FILE REFERENCE: S/ROGI-2
REPORT DATE: 11 November 2015
OFFICER DISCLOSURE OF INTEREST: Nil
PREVIOUS MEETING REFERENCES: Nil
AUTHOR: John Greay, Manager Engineering Services
ATTACHMENTS: Nil

PURPOSE OF REPORT:

Adjustment to works programme project.

BACKGROUND:

Within the Programme of works this year we have provided funding for reseal work on part of our sealed rural road system.

COMMENT:

Within the road programme of works, this year we have around \$300,000 earmarked for reseals. Reseals can only be carried out if the pavement is sound and is not badly rutted, cracked or potholed. Any roads that fall into this category need mostly reconstruction.

Three roads were evaluated as requiring strong consideration and they were Namban West, Old Geraldton – South and Barberton West. Traffic count data that relates to these roads are as follows;

Road Name	VPD	ESA
Old Geraldton	22	10.20
Namban West	20	7.19
Barberton East	25	5.30

All of the roads have a 3.7 metre wide seal with gravel shoulders and are showing signs of pavement failure. Of the three the Old Geraldton road is fairing the worst and has the heavier mix of traffic on it with equivalent standard axles of 10.20. It is suggested that the funds that are earmarked for reseals be used to upgrade the section of the Old Geraldton road from the Moora-Miling road to Readwright road – a distance of approximately 3.7 kilometres. This would allow for a 7.0 metre wide bitumen two coat seal pavement.



POLICY REQUIREMENTS:

There are no policy requirements that effect this proposal.

LEGISLATIVE REQUIREMENTS:

There are no known legislative requirements related to this item.

**STRATEGIC IMPLICATIONS:**

There are no known strategic implications associated with this proposal.

SUSTAINABILITY IMPLICATIONS:

- **Environment**
There are no known significant environmental implications associated with this proposal.
- **Economic**
There are no known significant economic implications associated with this proposal.
- **Social**
There are no known significant social implications associated with this proposal.

FINANCIAL IMPLICATIONS:

There are no additional financial implications to Council in relation to this item.

VOTING REQUIREMENTS

Absolute Majority Required

RECOMMENDATION

That the funds allocated for rural reseals within the 2015-16 budget be used to reconstruct and seal the pavement on the Old Geraldton South Road between the Moora-Miling and Readwright Road intersections.

10. REPORTS OF COMMITTEES**GENERAL PURPOSE COMMITTEE MEETING – 4 NOVEMBER 2015****10.1 REVIEW OF COUNCIL MEETING SCHEDULES****FILE REFERENCE:** EN/COAI**REPORT DATE:** 26 October 2015**DISCLOSURE OF INTEREST:** Nil**PREVIOUS MEETING REFERENCES:** Nil**AUTHOR:** Alan Leeson, Chief Executive Officer**ATTACHMENTS:** Schedule of Meeting Dates for 2016**PURPOSE OF REPORT:**

To provide suggested dates for Council approval for meeting dates for the 2016 year to enable public advertising as required by the Local Government Act 1995.

VOTING REQUIREMENTS:

Simple Majority Required

COMMITTEE RECOMMENDATIONS

That Council;

- 1. Adopts the meeting schedule for the period February 2016 to December 2016 as attached, based on one Ordinary Meeting of Council per month and one General Purpose Committee Meeting;*
- 2. Advertises the meeting dates in accordance with section 5.25 of the Local Government Act 1995 and Regulation 12 (1) of the Local Government (Administration) Regulations 1996.*

10.2 DELEGATIONS REGISTER REVIEW**FILE REFERENCE:** PL/DELI**REPORT DATE:** 2 November 2015**OFFICER DISCLOSURE OF INTEREST:** Nil**PREVIOUS MEETING REFERENCES:** Nil**AUTHOR:** Alan Leeson, Chief Executive Officer**ATTACHMENTS:** Delegations Register**PURPOSE OF REPORT:**

To allow Elected Members the opportunity to review as required by the Local Government Act 1995 Section 5.46(2) the various delegations made to the Chief Executive Officer.

VOTING REQUIREMENTS

Absolute Majority Required

COMMITTEE RECOMMENDATION

That Council, having reviewed its Delegations as required by the Local Government Act 1995

Endorse the following as having been reviewed:

1. *Payments from trust and municipal funds*
2. *Investments*
3. *Hire Fees and Charges – Recreation Centre*
4. *Rate book*
5. *Budget implementation*
6. *Rent/ Leasing or Residential Property Owned By the Shire of Moora*
7. *Liquor – Sale and Consumption at Recreation Centre*
8. *Impounding goods – authorised employee*
9. *Onus of Proof in Vehicle Offences*
10. *Enforcements and Legal Proceedings*
11. *Delegation of Power*
12. *Proceedings under Dog Act*
13. *Purchase order authorisation*
14. *Budget expenditure*
15. *Register of Delegations to Committees*
16. *Donations of Works to Organisations*
17. *Private Works*
18. *Temporary Rural Road Closures*
19. *Powers of Entry onto Land*
20. *Approval of Planning Applications*
21. *Works unlawful*
22. *Building Licences*
23. *Private Swimming Pools – Inspections*
24. *Health Act – Notices and Orders*
25. *Treatment of Sewerage and Disposal of Liquid Waste*

Delegations to Committees/Working Groups

(6) Council Membership to other Committees

- St James Residential College Board: Cr Humphry with proxy Cr House

- **Community Resource Centre Management Committee: Cr Holliday with proxy Cr Hamilton**
- **Landcare Groups (Rural Water Council / West Koojan-Gillingarra Land Conservation Committee): Cr Gardiner**
- **Wildflower Country Inc. Committee: Cr Pond with proxy Cr House**
- **Local Health Advisory Group: Cr Holliday**
- **Wheatbelt North Regional Road Group: Cr Seymour with proxy Cr Nixon**
- **Moora Sub Regional Road Group: Cr Seymour with proxy Cr Nixon**
- **Development Assessment Panel: Members - Cr Humphry and Cr Clydesdale-Gebert and Alternate members – Cr Pond and Cr Gardiner**
- **Innovation Central Midlands WA Inc: Shire President Cr Seymour, Deputy Shire President Cr Pond and Chief Executive Officer Alan Leeson**
- **Central Midlands Construction: Deputy Shire President Cr Pond**

11. ELECTED MEMBER MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

12. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF COUNCIL

13. MATTERS FOR WHICH THE MEETING MAY BE CLOSED

14. CLOSURE OF MEETING